

TITLE 4. California Gambling Control Commission

NOTICE OF PROPOSED RULEMAKING

“Two Year Licensing of Gambling Establishments and Key Employees”

The California Gambling Control Commission (Commission) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Commission proposes to amend Chapters 6 and 7 to establish a two-year term for gambling licenses and key employee licenses and to align the annual payment of table fees with the annual submission of financial statements. In the process of establishing a two-year license term, this proposed action would also consolidate many current license application forms and amend other forms for clarity purposes.

PUBLIC HEARING

The Commission will hold a public hearing starting at 10:30 A.M. on Thursday, August 23, 2007, at 2399 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833-4231. The hearing room is wheelchair accessible. Please call Linda Gonsalves, at (916) 263-0493 or TDD 1-800-345-4275, to request any special accommodations for persons with disabilities. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Information Digest.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relative to the proposed regulatory action to the Commission at any time during the 45-day public comment period. To be considered for a summary and response, all written comments must be received no later than 5:00 p.m., Thursday, August 23, 2007 (the day of the public hearing).

Written comments for the Commission's consideration should be directed to:

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AUTHORITY AND REFERENCE

Authority for the proposed regulations is provided by various provisions of the Gambling Control Act (Act), which may be found in Business and Professions Code sections 19800 through 19987. In particular, Business and Professions Code sections 19811(b), 19823, 19824, 19825, 19826, 19827, 19840, 19841, 19850, 19851, 19852, 19853, 19854, 19856, 19857, 19858(a), 19859, 19864, 19865, 19866, 19876(a), 19912, 19930(b), 19941, 19950(b) and 19951 provide authority to enact these regulations.

The reference citations are as follows: the proposed regulations implement, interpret, or make specific Business and Professions Code sections 19800, 19805, 19811, 19824(b), 19826, 19827, 19841, 19850, 19851, 19854, 19856, 19857, 19858(a), 19859, 19876(a), 19880(d), 19890(e), 19920, 19941 and 19951.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

The Act requires gambling licenses and key employee licenses to be renewed either annually, or for a longer period that the Commission may set, not to exceed two years.¹ These regulations replace the current annual license renewal period with a two-year (biennial) renewal period.

To renew a license, 120 days prior to expiration, licensees must complete and submit to the Commission an "Application for State Gambling License, CGCC-030 (Rev. 01-05)" or an "Application for Key Employee License, CGCC-031 Rev. 01-05", whichever is applicable, complete a "Renewal Supplemental Information for State Gambling/Key Employee License and Instructions to Renewal Applicants, DGC-APP. 017A (Rev. 12-04)", and submit the applicable renewal

¹ Business and Professions Code, subdivision (a), of section 19876

fee.² These forms can be burdensome to complete, as they require considerable background information about the applicant. Further, each gambling establishment is required to submit all of their key employee license renewal applications, along with their own gambling license renewal application, all in a single package.³ This requires the owner of the gambling establishment to coordinate the process with all of their key employees.

When received at the Commission, each renewal package must be reviewed for completeness. In the event that the renewal package is found to be incomplete, the licensee must be advised to submit the additional information or required fees.

Once the Commission is satisfied that the renewal application is complete, the package is forwarded to the Division for analysis and possible investigation.⁴ Should the Division determine that further investigation is necessary regarding the background of one or more of the applicants in the package, the applicant may be required to submit additional fees to defer the cost of the investigation.⁵ When their investigation is completed, the Division submits its recommendation concerning the renewal application to the Commission.⁶

The Commission will then consider the renewal application for approval or disapproval at a regularly scheduled public meeting.

Changing the license renewal period from one to two years will lessen the burden on licensees, will provide the Commission with the additional time needed to process license applications, and will provide the Division with critically needed additional time to perform the required background investigations of license applicants. This process can take up to 120 days (four months) to complete. These regulations will reduce the frequency of the entire license renewal process by 50%.

The Act requires the Commission to assure that licenses are not issued to, or held by unqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare. Further, the Act requires the Commission to assure that there is no material involvement with a gambling operation by unqualified persons, or by persons whose operations are conducted in

² California Code of Regulations, Title 4, subsection (a), of section 12344

³ California Code of Regulations, Title 4, subsection (c), of section 12344

⁴ California Code of Regulations, Title 4, paragraph (3), of subsection (a), of section 12345

⁵ California Code of Regulations, Title 4, subsection (d), of section 12344

⁶ California Code of Regulations, Title 4, paragraph (4), of subsection (a), of section 12345

a manner that is inimical to the public health, safety, or welfare.⁷ In response to these responsibilities, the Commission and the Division have, by regulation, established various forms that request information from applicants that assists the Division in an investigation of the applicant's background and associations.⁸ These regulations will consolidate many of these forms into one form, thus simplifying the application and renewal process for the applicant.

These proposed regulations include a complete rewrite of Commission forms: "Application for State Gambling License, CGCC-030 (Rev. 06/07)" and "Application for Key Employee License, CGCC-031 (Rev. 06/07)". The revisions to these forms include information that has in the past been requested on many other Division forms. As a result, these proposed regulations would abolish the following forms that will no longer be necessary:

- Renewal Supplemental Information for State Gambling/Key Employee License and Instructions to Renewal Applicants, DGC-APP. 017A (Rev. 12-04)
- Report of Annual Gross Revenues, DGC-APP. 018 (Rev. 09-03)
- Declaration of Compliance With The Requirement for Public Notice of Application for a Gambling License, DGC-LIC. 100 (Rev. 07-03)
- Instructions for Public Notice of an Application for a Gambling Establishment License, DGC-LIC. 102 (Rev. 07-03)
- Public Notice of An Application for a Gambling Establishment License, DGC-LIC. 102A (Rev. 7-03)
- Employee Work Permit Certification, DGC-APP. 019 (Rev. 09-03)
- Instructions to Applicants, DGC-APP. 007 (Rev. 12-04)

In addition to assuming the roles of many other Division forms, Commission forms CGCC-030 and CGCC-031 have been amended for clarity purposes. For example, the first page of the form has been changed to include an improved explanation as to the requirements for licensure of the various persons who may have an interest in a gambling operation, or for those who are considered key employees of a gambling operation. Further, these revised forms provide an improved explanation of the various Division forms that will be required as part of a license application package.

In the process of consolidating the above noted forms into one license application form, the Division found that many other forms relating to gambling license

⁷ Business and Professions Code, paragraphs (1) and (2), of subdivision (a), of section 19823.

⁸ California Code of Regulations, Title 4, subsection (a), of section 12342

applications and key employee license applications could be refined, clarified or simplified to produce a better understanding from the applicant. As a result, these proposed regulations would amend the following Division forms:

- Cardroom Applicant Supplemental Information for State Gambling License, DGC-APP. 015A (Rev. 09-04)
- Cardroom Applicant- Business Supplemental Information for State Gambling License, DGC-APP. 015B (New 09-04)
- Gambling Establishment Supplemental Information for State Gambling License, DGC-APP. 015C (New 09-04)
- Cardroom Key Employee Supplemental Information for State Gambling License, DGC-APP. 016A (Rev. 09-04)
- Authorization to Release Information, DGC-APP. 006 (Rev. 09-04)

Current regulations require that an applicant for a State Gambling License submit to the Division a completed Internal Revenue Service (IRS) form entitled “Tax Information Authorization (IRS 8821, Rev. April 2004).⁹ This form authorizes the Division to obtain copies of federal tax returns that have been submitted to the IRS by the license applicant. The information is utilized by the Division to verify the applicant’s income. When the Division receives this authorization form, another IRS form, (Request for Transcript of Tax Return, IRS 4506-T, Rev. April 2006), must be completed to request a transcript of the applicant’s tax return(s). IRS form 4506T already has a section printed on it where the applicant can request that a copy of their transcript(s) be sent to a third party, in this case the Division. To make the process simpler and quicker for both the applicant and the Division, these regulations will change the required form from the IRS 8821 to the IRS 4506-T. This will help to speed-up the process by going directly to the form that causes the tax return transcript(s) to be sent to the Division.

These proposed regulations would also add a new Division form that will request supplemental background information about those gambling license applicants that are part of a trust. This new form is entitled, “Trust Supplemental Background Investigation Information, DGC-APP. 143 (New 06/07)”. It requests information that may be unique to a trust, such as the identity of the trustee, trustor, beneficiary and trust authority.

The Act requires the holder of a gambling license to pay an annual fee that is set by a schedule based on the number of tables in use, or by their gross revenues,

⁹ California Code of Regulations, Title 4, paragraph (28), of subsection (a), of section 12342, and paragraph (1), of subsection (a), of section 12343

whichever fee amount is greater.¹⁰ These regulations will base the annual fee on the tables or gross revenues for the calendar year immediately preceding the date on which the fee is due. The fee will be due on April 30th of each calendar year. For example, the amount of the fee due on April 30, 2009 would be based on the number of tables or gross revenues for calendar year 2008. These annual fees will be on the same schedule as that specified for the annual submission of financial statements.¹¹ This means that the annual fee and financial statements would both be due on April 30 of each year. As a result, these changes will help to lessen the burden upon the holder of a gambling license, by placing two annual processes onto the same schedule.

Current regulations allow the owner licensee of a gambling establishment to apply to operate more tables than is regularly authorized, on both a temporary or permanent basis.¹² As part of these regulations, the applicant is required to submit an application fee to the Commission, and a review deposit to the Division.¹³ Both of these fees are deposited into the same state fund (The Gambling Control Fund), and are available to both the Commission and the Division, upon appropriation by the Legislature.¹⁴ As a result, these regulations will simplify the process by having the applicant submit both fees directly to the Commission, along with their application form and additional table fees.

Current regulations require a licensee to develop an emergency preparedness and evacuation plan.¹⁵ Current regulations also require that a licensee submit a copy of its plan as part of the annual license renewal application.¹⁶ These proposed regulations would delete the word “annual”, so that the submission of a licensee’s plan can conform to a biennial license renewal process, as proposed by this action. These proposed regulations would also delete obsolete effective date language for the submission of a licensee’s emergency preparedness and evacuation plan. These proposed regulations would also eliminate the need for the licensee to forward two

¹⁰ Business and Professions Code, subparagraph (B), of paragraph (2), of subdivision (b), and subdivisions (c) and (d) of section 19951

¹¹ See amended text for California Code of Regulations, Title 4, paragraph 4, of subsection (b), of section 12400 and subsection (b), of section 12403

¹² California Code of Regulations, Title 4, subsection (a), of section 12358, and subsection (a), of section 12359

¹³ California Code of Regulations, Title 4, paragraph (2), of subsection (a), of section 12358, and paragraph (2), of subsection (a), of section 12359

¹⁴ Business and Professions Code, subdivision (b), of section 19950

¹⁵ California Code of Regulations, Title 4, subsections (b) and (c), of section 12370

¹⁶ California Code of Regulations, Title 4, subsection (d), of section 12370

copies of its plan to the Commission, and instead require that only one copy be submitted.

Finally, for purposes of clarity, these regulations will add a definitions section to Chapter 6 of Title 4, divide the chapter into three (3) articles, and make other minor conforming changes.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: These regulations do not impose a mandate on local agencies or school districts.

Cost or savings to any state agency: None

Cost to any local agency or school district that must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed upon local agencies: None

Cost or savings in federal funding to the state: None

Cost impact on representative private person or business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Impact on Business: The Commission has made a determination that the proposed regulatory changes will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: The Commission has made an initial determination that the proposed regulatory action would not affect housing costs.

Effect on small business: The Commission has made an initial determination that the proposed regulatory action would affect small businesses. The action would benefit small business by extending the term of a gambling license from one to two years, reducing the burden of license renewal by 50%.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

ASSESSMENT REGARDING CREATION OR ELIMINATION OF JOBS IN CALIFORNIA

The Commission has made an assessment and determined that the adoption of the proposed regulation will neither create nor eliminate jobs in the State of California, nor result in the creation of businesses or the elimination or expansion of existing businesses in the State of California.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action should be directed to the following primary contact person:

Herb Bolz, Senior Legal Counsel and Regulations Coordinator
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Requests for a copy of the proposed text of the regulation, Initial Statement of Reasons, the modified text of the regulation, if any, should be directed to the following backup contact person:

Gina Luna, Office Technician
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AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the office address noted above. As of the date that this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons. A copy of these documents may be obtained by contacting Herb Bolz at the address or telephone number listed above or by accessing the Commission's website at <http://www.cgcc.ca.gov>. Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the Regulations Coordinator or viewed on the website.

AVAILABILITY OF MODIFIED OR CHANGED TEXT

Following the public comment period and hearing, the Commission may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, will be made available to the public for at least 15 days prior to the date on which the Commission adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Herb Bolz at the address indicated above.

The Commission will accept written comments on the modified regulation for 15 days after the date on which it is made available.